

Introduced by Senator CorbettJanuary 19, 2010

An act to amend Section 1749.5 of the Civil Code, relating to gift certificates.

LEGISLATIVE COUNSEL'S DIGEST

SB 885, as introduced, Corbett. Gift certificates: redemption.

Existing law provides that a gift certificate sold after January 1, 1997, is redeemable in cash or subject to replacement with a new gift certificate. Existing law also provides that a gift certificate with a cash value of less than \$10 may be redeemed in cash, as defined, for its cash value. Existing law prohibits the selling of a gift certificate that contains a dormancy fee, subject to specified exceptions.

This bill would require that a gift certificate with a cash value of less than \$20 be redeemable in cash for its cash value, and would require that a gift certificate contain a statement to that effect. This bill would also delete the exceptions to the prohibition on the sale of a gift certificate that contains a dormancy fee.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1749.5 of the Civil Code is amended to
- 2 read:
- 3 1749.5. (a) It is unlawful for any person or entity to sell a gift
- 4 certificate to a purchaser that contains any of the following:
- 5 (1) An expiration date.

(2) A service fee, including, but not limited to, a service fee for dormancy, ~~except as provided in subdivision (e).~~

(b) (1) Any gift certificate sold after January 1, 1997, is redeemable in cash for its cash value, or subject to replacement with a new gift certificate at no cost to the purchaser or holder.

(2) Notwithstanding paragraph (1), any gift certificate with a cash value of less than ~~ten dollars (\$10)~~ *twenty dollars (\$20)* is redeemable in cash for its cash value.

(3) *A statement shall be printed on the gift certificate in at least 10-point font stating that any gift certificate with a cash value of less than twenty dollars (\$20) is redeemable in cash for its cash value. The statement may appear on the front or back of the gift certificate, but shall appear in a location where it is visible to any purchaser prior to the purchase thereof.*

(c) A gift certificate sold without an expiration date is valid until redeemed or replaced.

(d) This section does not apply to any of the following gift certificates issued on or after January 1, 1998, provided the expiration date appears in capital letters in at least 10-point font on the front of the gift certificate:

(1) Gift certificates that are distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer.

(2) Gift certificates that are donated or sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those gift certificates is not more than 30 days after the date of sale.

(3) Gift certificates that are issued for perishable food products.

~~(e) Paragraph (2) of subdivision (a) does not apply to a dormancy fee on a gift card that meets all of the following criteria:~~

~~(1) The remaining value of the gift card is five dollars (\$5) or less each time the fee is assessed.~~

~~(2) The fee does not exceed one dollar (\$1) per month.~~

~~(3) There has been no activity on the gift card for 24 consecutive months, including, but not limited to, purchases, the adding of value, or balance inquiries.~~

~~(4) The holder may reload or add value to the gift card.~~

1 ~~(5) A statement is printed on the gift card in at least 10-point~~
2 ~~font stating the amount of the fee, how often the fee will occur,~~
3 ~~that the fee is triggered by inactivity of the gift card, and at what~~
4 ~~point the fee will be charged. The statement may appear on the~~
5 ~~front or back of the gift card, but shall appear in a location where~~
6 ~~it is visible to any purchaser prior to the purchase thereof.~~

7 ~~(f)~~

8 (e) An issuer of gift certificates may accept funds from one or
9 more contributors toward the purchase of a gift certificate intended
10 to be a gift for a recipient, provided that each contributor is
11 provided with a full refund of the amount that he or she paid toward
12 the purchase of the gift certificate upon the occurrence of all of
13 the following:

14 (1) The funds are contributed for the purpose of being redeemed
15 by the recipient by purchasing a gift certificate.

16 (2) The time in which the recipient may redeem the funds by
17 purchasing a gift certificate is clearly disclosed in writing to the
18 contributors and the recipient.

19 (3) The recipient does not redeem the funds within the time
20 described in paragraph (2).

21 ~~(g)~~

22 (f) The changes made to this section by the act adding this
23 subdivision shall apply only to gift certificates issued on or after
24 January 1, 2004.

25 ~~(h)~~

26 (g) For purposes of this section, “cash” includes, but is not
27 limited to, currency or check. If accepted by both parties, an
28 electronic funds transfer or an application of the balance to a
29 subscriber’s wireless telecommunications account is permissible.